IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 391 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE C.K.BUCH

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	
2	To be referred to the Reporter or not ?	
3	Whether their Lordships wish to see the fair copy of the judgment ?	
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	
5	Whether it is to be circulated to the civil judge ?	

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RAKESH PARSOTTAMBHAI PATEL - Applicant(s)

Versus

STATE OF GUJARAT - Respondent(s)

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Appearance :

MR MITESH R AMIN for Petitioner No(s).: 1.

MR NC SOOD, LD.APP for Respondent No(s).: 1.

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CORAM : HONOURABLE MR.JUSTICE C.K.BUCH

Date : 03/08/2005

ORAL JUDGMENT

1. Heard Mr.M.R. Amin, learned counsel appearing for the petitioner and Mr.N.C. Sood, ld.APP, appearing on behalf of the respondent-State.

2. Invoking jurisdiction of this Court under Section 397 r/w. Section 401 of the Code of Criminal Procedure, 1973, the petitioner-orig.accused has prayed that the order dated 20th March, 2004 and 18th May, 2004, passed below application Exhs.9 and 12 by the ld.Additional Sessions Judge, Amreli, respectively, may be quashed and set aside and it may be ordered that the petitioner-accused on the date of commission of alleged offence was below 18 years of age and, therefore, the case against the present petitioner may be transferred to and tried by Juvenile Justice Court constituted under the Juvenile Justice Act, 1986 (hereinafter referred to as 'the Act, 1986') and the scheme of Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as 'the Act, 2000').

3. The application Exh.9 is an application preferred before the Court of Sessions dealing

with the Sessions Case No.195 of 2001 filed on 03rd March, 2004. It is contended that the alleged offence has been committed on 02nd November, 1996 and, thereafter, the petitioner-accused has been arrested on 04th November, 1996. After completion of investigation, the present petitioner along with other accused persons is chargesheeted for the offence punishable under Sections 302, 324, 323, 447 and 114 of the Indian Penal Code and also under Section 135 of the Bombay Police Act. Though the police was aware about the fact that the petitioner-accused is a minor, he is wrongly chargesheeted by the police. Even for the sake of argument, if it is accepted that as per the scheme of the Act,1986, the petitioner being a male accused and was above 16 years of age, even then on the date of framing of the charge, the petitioner could not have been tried by the Court of Sessions because the Act, 1986, has

been eclipsed by the Act, 2000. While rejecting the application Exh.9, the ld.Additional Sessions Judge held that on the date of commission of offence, the Act, 1986 was applicable. Not only that the case was even committed to the Court of Sessions in the month of July, 1997 in exercise of powers vested with the ld.JMFC under Section 209 of the Code of Criminal Procedure, 1973 and, therefore, as per the scheme of Section 20 of the Act, 2000, the petitioner can be tried with the other co-accused persons by the Court of Sessions. So the order passed below Application Exh.9 does not dispute the actual date of birth and the fact that on the date of incident, the petitioner was below 18 years of age and had completed 17 years, 6 months and 20 days. When the Court decided to frame the charge against accused persons, the petitioner again applied on 31st March, 2004, preferring an application Exh.12. Undisputedly, the date

of birth of the present petitioner is 12th April, 1979 and it was neither argued before the ld.Additional Sessions Judge nor before this Court by the ld.APP that the petitioner had completed 18 years of age on the date of commission of the offence i.e. on 02nd November, 1996. It is one of the contention that as per the definition of 'Juveline' in the Act, 2000, the petitioner was juvenile on the date of commission of the offence as he was below 18 years of age on the date of commission of the offence under Section 3 of the Act, 2000. It is submitted and argued that pendency of inquiry or trial would not change the status of the present petitioner as juvenile within the meaning of Section 2(K) of the Act, 2000. Before framing the charge against the accused under Section 228 of the Code of Criminal Procedure, 1973, the ld.trial Judge is under obligation to ascertain as to whether any of the accused produced before him

whether on the date of commission of offence was juvenile within the meaning of the provisions of the Act, 2000. If the answer is in affirmative, then the learned Judge cannot proceed with the trial against such accused and the Court is under obligation to hand over the case/inquiry to the Juvenile Justice Board constituted under Section 4 of the Act, 2000 in view of Section 4 r/w. Section 7 of the Act, 2000.

4. It is argued and contended that in view of specific bar under Section 18 of the Act, 2000, the present petitioner cannot be tried with other accused persons. It would be beneficial to quote relevant Section 18 of the Act, 2000, which is as under :

> *"**Section 18: No joint proceeding of juvenile and person not a juvenile** : **(1)** Notwithstanding anything*

contained in Section 223 of the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, no juvenile shall be charged with or tried for any offence together with a person who is not a juvenile.

(2) *If a juvenile is accused of an offence for which under Section 223 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, such juvenile and any person who is not juvenile would, but for the prohibition contained in sub-section (1), have been charged and tried together, the Board taking cognizance of that offence shall direct separate trials of the juvenile and the other person.*

5. It is argued by Mr.Amin that the ld.trial Judge has grossly erred in ignoring the statutory provision when the procedure laid down under the Act, 2000 has overriding effect over the Act, 1986 being a special statute. After hearing the parties, the ld.Sessions Judge ultimately held that this issue has been legitimately and legally concluded by the Court in the month of March, 2004 and on the day on which the alleged offence was committed, the Act, 1986 was applicable and the petitioner being an accused above 16 years of age, he was rightly arrested and then chargesheeted by the Investigating Agency. The ld.APP has hammered on the point that the day on which the police completed the investigation and filed chargesheet, the Act, 2000 was not even on the floor of the Parliament. The case against the petitioner was committed to the Court of Sessions in the year 1997 and then the trial can be said to be

pending before the Court of Sessions. On account of some administrative reason, the Sessions Case came to be registered with new number as Sessions Case No.195 of 2001. According to ld.APP, the case against the present petitioner was committed on 03rd July, 1997 and, therefore, the ld.Additional Sessions Judge has rightly said that the Court can try the present petitioner jointly with the other co-accused persons in view of the scheme of Section 20 of the Act, 2000.

6. According to Mr.Amin, it was the obligation of the Court on the day of framing of charge to ascertain as to whether any other accused on the day of commission of offence was Juvenile within the meaning of scheme of the Act, 2000 and if the answer is in affirmative then the rest of the questions were not required to be gone into by the ld.Sessions Judge and he ought to have transferred the case of the

present petitioner to the Board constituted under the Act, 2000 making necessary observations.

7. Mr.Amin, learned counsel appearing for the petitioner-accused, in support of his arguments has placed reliance on the decision in the case of ***Pratap Singh v. State of Jharkhand and another, reported in 2005 SCC (Cri) 742***. The Bench of five Judges of the Apex Court in the cited decision has observed *(in paragraph nos.:10,12 and 23)* that the whole object of the Act, 1986 and the Act, 2000 is to provide for the care, protection, treatment, development and rehabilitation of juveniles. The Acts being benevolent legislations, an interpretation must be given which would advance the cause of the legislation i.e. to give benefit to the juveniles. Section 2(l) of the Act, 2000 defines “juvenile in conflict with law” as

meaning a juvenile who is alleged to have committed an offence. The notable distinction between the definitions of the Act, 1986 and the Act, 2000 is that in the Act, 1986 “juvenile in conflict with law” is absent. The definition of delinquent juvenile in the Act, 1986 is referable to an offence said to have been committed by him. It is the date of offence that he was in conflict with law. When a juvenile is produced before the competent authority and/or court he has not committed an offence on that date, but he was brought before the authority for the alleged offence which he has been found to have committed. Therefore, what was implicit in the Act, 1986 has been made explicit in the Act, 2000.

8. In view of above observations, the ld.trial Judge, when has recorded satisfaction that on the day of commission of offence, the

petitioner was below 18 years of, he could not have decided to proceed with trial against the present petitioner with other accused persons. The Apex Court in the case of Pratap Singh (supra) has addressed two major questions, one of which is as under :

> ***(a)*** *Whether the date of occurrence will be the reckoning date for determining the age of the alleged offender as juvenile offender or the date when he is produced in the court/competent authority ?*

9. After considering the preamble, the aims and objects of the Act, 1986 as well as the Act, 2000, held that the date of occurrence of commission of offence, would be the relevant date for applicability of the Act, 2000 so far as age of the accused is concerned. The Apex Court in para:19 of the said decision, after referring to its earlier decision in the case

of ***Umesh Chandra v. State of Rajasthan, reported in 1982 (2) SCC 202***, has quoted paragraph:28 of the said decision. I would like to quote the said paragraph:28 of the decision in the case of Umesh Chandra (supra), which is as under :

> ***"28****. As regards the general applicability of the Act, we are clearly of the view that the relevant date for the applicability of the Act is the date on which the offence takes place. Children Act was enacted to protect young children from the consequences of their criminal acts on the footing that their mind at that age could not be said to be mature for imputing mens rea as in the case of an adult. This being the intendment of the Act, a clear finding has to be recorded that the relevant date*

for applicability of the Act is the date on which the offence takes place. It is quite possible that by the time the case comes up for trial, growing in age being an involuntary factor, the child may have ceased to be a child. ***Therefore, Sections 3 and 26 became necessary. Both the sections clearly point in the direction of the relevant date for the applicability o the Act as the date of occurrence. We are clearly of the view that the relevant date for applicability of the Act so far as age of the accused, who claims to be a child, is concerned, is the date of occurrence and not the date of the trial****.”*

(emphasis supplied)

10. It is observed that the decision of the Apex Court in the case of ***Arnit Das v. State of Bihar, reported in 2000(5) SCC 488***, cannot be said to have laid down a good law. But this finding would not help the present petitioner because the finding recorded by the Apex Court while answering Question(b) is found more relevant. The said Question(b) addressed by the ld.trial Court in the decision of Pratap Singh (supra) is as under :

> *"**(b)** Whether the Act of 2000 will be applicable in the case a proceeding is initiated under the 1986 Act and pending when the Act of 2000 was enforced with effect from 1.4.2001."*

11. The Act, 1986 was holding the field till it was eclipsed by enforcement of the Act,2000 with effect from 01st April, 2001. The notification of 28th February, 2001 in the official gazette issued by the Central

Government in exercise of powers conferred by sub-section (3) of Section 1 of the Act, 2000. It would be beneficial to quote repeal and savings Section i.e. Section 69, of the Act, 2000, which is as under :

> ***"Section 69. Repeal and savings.-(1)*** *The Juvenile Justice Act, 1986 (52 of 1986) is hereby repealed.*
>
> ***(2)*** *Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of the Act."*

12. Sub-section (2) of the said Section 69 of the Act, 2000 provides that anything done or any action taken under the Act, 1986 shall be deemed to have been done or taken under the corresponding provisions of the Act, 2000. So even after replacement of the Act, 1986, on

repealing anything done or any action taken under the Act, 1986 is saved by sub-section (2) of Section 69 of the Act,2000 as if the action has been taken under the scheme of the Act, 2000.

13. In view of nature of submissions made before this Court, I would like to quote Section 20 of the Act, 2000 because the same has been referred to by the ld.trial Judge and has been very much relied upon by the ld.APP while making submissions in the present Revision Application, which is as under :

> ***"Section 20. Special provision in respect of pending cases*** :- *Notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which this Act comes into force in that area, shall be continued in*

that court as if this Act had not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and instead of passing any sentence in respect of juvenile, forward the juvenile to the Board which shall pass orders in respect of that juvenile in accordance with the provisions o this Act as if it had been satisfied on inquiry under this Act that a juvenile has committed the offence."

14. There is a striking distinction between the Act, 1986 and the Act, 2000, with regard to definition of 'juvenile'. Section 2(h) of the Act, 1986 defines 'juvenile' as under :

"Section 2(h) : *'juvenile' means a boy who has not attained the age of sixteen years or a girl who has not*

attained the age of eighteen years."

In the same way, Section 2(k) of the Act, 2000 defines juvenile as under :

> ***"Section 2(k) :*** *'juvenile' or 'child' means a person who has not completed eighteenth year of age."*

15. So in the Act, 2000, wherever the word "juvenile" appears, now the same shall have to be taken to mean a person irrespective of male or female who has not completed 18 years of age.

16. Section 3 of the Act,2000 relied upon by Mr.Amin provides that even where an inquiry or trial has been initiated and the juvenile ceases to be juvenile crossing the age of 18 years, the inquiry must be continued and the orders made in respect of such persons as if such person had continued to be a juvenile.

It is relevant to note that as provided under Section 64 of the Act, 2000, a juvenile if is undergoing sentence of imprisonment, at the commencement of the Act, 2000, he was in lieu of undergoing such sentence required to be sent to Special Home and should be kept in a fit institution. This provision magnifies the intention of the legislature and glitters the aims and objects of the Act, 2000. So Section 20 of the Act, 2000 placed before the Court requires to be appreciated and the Apex Court in the case of Pratap Singh (supra) has analysed this aspect. The Court is not in agreement with the say of Mr.Amin that as on the date of commission of the offfence, the petitioner was below 18 years of age in the month of April, 2004, the trial Court could not have framed the charge. The application Exh.9 ought to have been allowed. Only with a view to get substantive justice, detailed application quoting relevant provisions of the

Act, 2000, was again submitted when the Court had framed charge ignoring the scheme and intention of the legislature. It was prayed that the age of the accused on the date of commission of offence may be determined and further in view of provisions of Sections 3 and 18 of the Act, 2000, the case against the present petitioner may be sent to the Board constituted under Section 4 of the Act, 2000 and appropriate orders under Section 228(1) of the Code of Criminal Procedure, 1973, may also be passed.

17. I have considered the decision and the findings recorded by the Apex Court in the case of Pratap Singh (supra). The FIR against Pratap Singh along with other conspirators was lodged before the police on 01st January, 1999, for the offences punishable under Section 364(A), 302, 201 r/w. Section 120(B) of the Indian Penal Code to the effect on 31st

December, 1998, for causing death of the deceased by poisoning him. He was arrested and produced before the ld.Chief Judicial Magistrate on 22nd November, 1999. On production, the ld.Chief Judicial Magistrate assessed the age of Pratap Singh to be around 18 years. On 28th February, 2000, one petition was filed on behalf of Pratapsinh claiming that he was minor on the date of the incident i.e.31st December, 1998. On the claim made by Pratap Singh, ld.Chief Judicial Magistrate transmitted the case to the Juvenile Court and he was produced before the Juvenile Court on 3rd March, 2004. The Juvenile Court ultimately assessed the age of the accused Pratap Singh by appearance to be between 15 to 16 years and directed the Civil Surgeon to constitute Medical Board for the purpose of assessing the age of Pratap Singh by scientific examination. On account of failure in constituting Medical Board for the purpose by the State, the

ld.Chief Judicial Magistrate asked the purpose to adduce evidence on examination of School Leaving Certificate and marksheet of Central Board of Secondary Education and recorded the finding that Pratap Singh was below 16 years of age on 31st December, 1998, taking the date of birth of Pratap Singh as 18th December, 1983 recorded in the certificates produced as piece of evidence. The said accused Pratapsinh was then released on bail. The aggrieved informant filed an Appeal before the ld.Additional Sessions Judge, who after referring to the judgment of the Apex Court in the case of Arnit Das (supra) decided the Appeal on 19th February, 2001 holding that the Juvenile Court had erred in not taking note of the fact that the date of production before the Juvenile Court was the date relevant for deciding as to whether Pratap Singh was Juvenile or not for the purpose of trial and directed fresh inquiry to assess the age of the accused

Pratap Singh. Feeling aggrieved by the decision of the ld.Additional Sessions Judge, Pratap Singh moved High Court by filing a Criminal Revision Application and the High Court while disposing the Revision Application also followed the decision in the case of Arnit Das (supra) and held that reckoning date is the date of production of the accused before the Court and not the date of the occurrence of the offence. The High Court observed that for determining the date of juvenile, the provisions of the Act,1986 would apply and not the Act, 2000. The High Court, however, similarly observed that the date of birth as recorded in the School and School Certificates should be the best evidence for fixing the age of the accused and other evidence in proving the age would be of much inferior quality. When the Bench of five Judges was dealing with the say of the appellant-Pratap Singh, the inquiry was

pending and, therefore, the Apex Court has not made any comment on certain part of finding recorded by the High Court. As discussed above, the Apex Court has addressed main two questions. For the purpose of present decision, it would be beneficial to quote relevant paragraph:31 in the case of Pratap Singh, where the Court has held that:

> ***"31.*** *Section 20 of the Act as quoted above deals with the special provision in respect of pending cases and begins with a non obstante clause. The sentence "notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which this Act came into force" has great significance. The proceedings in respect of a juvenile pending in any court referred to in Section 20*

of the Act are relatable to proceedings initiated before the 2000 Act came into force and which are pending when the 2000 Act came into force. The term "any court" would include even ordinary criminal courts. If the person was a "juvenile" under the 1986 Act the proceedings would not be pending in criminal courts. They would be pending in criminal courts only if the boy had crossed 16 yeas or the girl had crossed 18 years. This shows that Section 20 refers to cases where a person had ceased to be a juvenile under the 1986 Act but had not yet crossed the age of 18 years then the pending case shall continue in that court as if the 2000 Act has not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and instead of

passing any sentence in respect of the juvenile, shall forward the juvenile to the Board which shall pass orders in respect of that juvenile."

18. Here at this stage, it is necessary to refer to relevant Rule 62 of the Rules framed by the Central Government [Juvenile Justice (Care and Protection of Children) Rules, 2001 (Model], which is as under :

"Rule 62 : Pending Cases :(1) No juvenile in conflict with law or a child shall be denied the benefits of the Act, 2000 and the rules made thereunder.

(2) All pending cases which have not received a finality shall be dealt with and disposed of in terms of the provisions of the Act, 2000 and the rules made thereunder.

(3) Any juvenile in conflict with law, or a child shall be given the benefits under sub-rule(1) , and it is hereby clarified that such benefits shall be made available not only to those accused who was juvenile or a child at the time of commission of an offence, but also to those who ceased to be a juvenile or a child during pendency of any enquiry or trial.

(4) While computing the period of detention of stay of a juvenile in conflict with law or of a child, all such period which the juvenile or the child has already spent in custody, detention or stay shall be counted as a part of the period of

stay or detention contained in the final order of the competent authority."

19. The Apex Court ultimately in the case of Pratap Singh in paragraphs:36 and 37 held that:

> ***"36.*** *We, therefore, hold that the provisions of the 2000 Act would be applicable to those cases initiated and pending trial/inquiry for the offences committed under the 1986 Act provided that the person had not completed 18 years of age as on 1.4.2001.*
>
> ***37.*** *The net result is :*
>
> ***(a)*** *The reckoning date for the determination of the age of the juvenile is the date of the offence and not the date when he*

is produced before the authority or in the court.

(b) *The 2000 Act would be applicable in a pending proceeding in any court/ authority initiated under the 1986 Act and is pending when the 2000 Act came into force and the person had not completed 18 years of age as on 1.4.2001.”*

20. In the present case, the petitioner-Rakesh Purshottam Patel, is the orig.accused no.3 and on the date of commission of offence he was of 17 years, 6 months and 22 days. The case against him was committed to the Court of Sessions after filing of the chargesheet when the Act, 1986 was very well in force. So the case against the present petitioner can be said to have been pending before the Court of Sessions, the day on which the Act, 2000 came in to force. So the day on which the

petitioner was produced before the Court for the first time before the learned Magistrate after commission of offence or was committed to the Court before the ld.JMFC under Section 209 of the Code of Criminal Procedure, 1973, they were not under obligation to inquiry into the matter as to the age of the accused because he was very well above the age of 16 years being a male accused as he was more than 17½ years. No attempt, till application Exh.9 was moved in the month of March, 2004, was made by the petitioner that his case be sent to the Board constituted under Section 4 of the Act, 2000. In the case of Pratap Singh (supra), it was found that he was below 16 years of age on 31st December, 1998 i.e. the date of alleged offence. Therefore, he was a juvenile within the meaning of Act, 1986 and can be said to be a juvenile even as per the definition under Section 2(k) of the Act, 2000. The petitioner-accused's case is a

reference case. The present petitioner was undisputedly not a juvenile even within the meaning of the Act, 1986. Even for the sake of argument, if it is accepted that he was a juvenile as defined under Section 2(k) of the Act,2000, he had crossed the age of 18 years much prior to the date of enforcement of the Act i.e. 01st April, 2001 because certain months were left in completing 18 years, when he committed offence. So the finding recorded by the Apex Court in the case of Pratap Singh (supra) in the above referred paragraph nos.:36 and 37 would not help the present petitioner.

21. It would be beneficial to mention that the Apex Court in its subsequent decision in the case of ***Bijender Singh v. State of Haryana and others, reported in 2005(2) AIR SCW 2046,*** after referring to the case of Pratap Singh (supra) has observed that :

> ***"16.*** *The Constitution Bench in Pratap Singh's case (supra) has held as under:*
>
> *"(i) in terms of the 1986 Act, the age of the offender must be reckoned from the date when the alleged offence was committed.*
>
> *(ii) The 2000 Act will have a limited application in the cases pending under the 1986 Act.*
>
> *(iii) The Court would be entitled to apply the ordinary rules of evidence for the purpose of determining the age of the juvenile taking into consideration the provisions of Section 35 of the Indian Evidence Act, 1872 as the model rules framed by the Central Government have no statutory force."*

22. It is experienced that young accused person

involved in serious crime either tempted or enticed by other co-accused or close relatives tries to raise a dispute as to the age of such young accused. In large number of cases the Courts have experienced that the pleas of such nature are not genuine. But in view of the settled legal position, the plea unless is found apparently false or infeasible, the Courts are supposed to go deep into the matter so that a juvenile may not have to face the trial in a regular Court and that too with the hardened criminals including the co-accused, who might have probably made use of a person who is juvenile. Therefore, where accused says that he is a minor and juvenile on the date of commission of alleged offence at any stage of trial, the Presiding Judge of the Court should become sensitive and should start inquiry as to the age of the accused and ascertain whether it us a case requires to be referred to Juvenile Board constituted under Section 4

of the Act, 2000 for inquiry contemplated under Section 14 of Act, 2000. If it is found that the accused is undisputedly juvenile within the meaning of either under Section 2(h) of the Act, 1986 or 2(k) of the Act, 2000, then he should transfer the proceedings to the Juvenile Board for appropriate further action as per the scheme of the Act, 2000. Even he may not be sent to Jail in the event of his conviction. If it is found that the person accused who is claimed to be juvenile is not a juvenile, then it is not necessary to transfer the discrete inquiry to Juvenile Board. The rule of best available evidence should be applied while inquiring discretely as to the age of the accused. The detailed inquiry normally should be done/ conducted by the Juvenile Board and for that independent order can be passed. During investigation before chargesheeting them, the Criminal Court should investigate into the matter and even

there is little scope to order further investigation under Section 173(8) of the Code of Criminal Procedure, 1973, if need be. For all these purposes, the relevant date is the date of offences and not either filing of the chargesheet or committal of case or framing of charge. While conducting the criminal trial or even at the end of trial, if the Court finds that the accused facing trial before him was a juvenile even on the date of commission of offence, then he should be handled by the Court as per the observations made by the Court in the case of Pratap Singh (supra) and also the ratio as propounded by the Division Bench of this Court in the case of ***Nanlabhai Kukabhai Rathwa v. State of Gujarat, reported in 2005(2) GLR 1388*** and in the background of the observations made by this Court.

23. The Court is not in agreement with the submission made by Mr.Amin that the lower

Court had no jurisdiction to decide whether Section 20 of the Act, 2000, would apply in the present case or not. In the case of Nanlabhai (supra), the Division Bench of this Court while dealing with a Criminal Appeal against the order of conviction had ascertained the age of the accused and it was found that on the date of commission of the offence, the accused was juvenile. So the inquiry contemplated under Section 14 of the Act, 2000 was impliedly conducted in the larger interest of justice by this Court and found that there was no joint proceedings permissible in view of the scheme of Section 18 of the Act, 2000. The incident in the case of Nanlabhai (supra) had occurred on 09th March, 2003 and the accused came to be convicted vide judgment on 17th May, 2004. But the present case, does not fall in the category of case of either Pratap Singh (supra) or Nanlabhai (supra), as on the date

of incident in these cases, the Act, 1986 was in force and the present petitioner being a male accused above 16 years, he was not juvenile within the meaning of Section 2(h) of the Act, 1986. So Section 20 of the Act, 2000 shall have application because this special provision is in respect of pending cases i.e.cases which were not completed and pending before the Court of law at the time when Act,2000 came into force. So obviously, therefore, it will be difficult for this Court to say that the ratio propounded by the Division Bench of this Court in the case of Nanlabhai (supra) will have any application.

24. The provisions of Section 20 of the Act, 2000 neither creates any right in favour of either accused nor prosecutor; nor it takes away the right of juvenile praying that he should not be tried by a regular Court and case against him should be handed over to the Juvenile

Board. The intention of the legislature is only to provide additional protection to a juvenile so the cases pending against a juvenile in regular Courts can be efficiently dealt with and in accordance with intention of the legislature which looks to a juvenile slightly from a different, better angle, the embargo of giving retrospective effect to a statute arises only when it takes away the vested right of a person individual and, therefore, the decision of the lower Court in the background of the discussion made which is concentrating on Section 20 of the Act, 2000, is found absolutely logical and legal.

25. In view of above discussion and observations, I do not find any merit in this Revision Application and, therefore, the same is hereby dismissed. Rule is discharged. The ad interim relief granted earlier is hereby vacated.

26. The ld.trial Court is hereby directed to conclude the trial as expeditiously as possible.

(C.K. Buch, J)

Aakar/17/8/2005